

ORDINANCE NO. 04-159

AN ORDINANCE AMENDING PART FIVE (GENERAL OFFENSES CODE), CHAPTER 531 (NUISANCES GENERALLY), OF THE CODIFIED ORDINANCES OF THE CITY, IN THE MANNER AND WAY SPECIFICALLY SET FORTH HEREINBELOW; BY ENACTING NEW SECTION 531.16 (CRIMINAL ACTIVITY AS A NUISANCE; USER CHARGE FOR EXCESSIVE CONSUMPTION OF PUBLIC SERVICES); AND DECLARING THAT THIS ORDINANCE SHALL TAKE EFFECT UNDER SUSPENSION OF THE RULES AS CONTAINED IN AND IN ACCORDANCE WITH SECTION 13 OF THE CITY CHARTER.

**WHEREAS**, the City has by Ordinance declared a number of actions and conditions as nuisances, and the City may abate many of such nuisances and the costs may be assessed on the property on which the nuisance has occurred, or from which the nuisance has originated; and

**WHEREAS**, the residents of the City have been adversely affected by criminal activity that occurs repeatedly at, or originating from, certain properties in the City; and

**WHEREAS**, repeated violations of law stemming from a single property place an undue burden on the City's safety resources, and therefore, an undue burden on taxpayers; and although most property owners take responsibility for activities on their property, some property owners fail to take aggressive action, or any action at all, to deal with such nuisance activities by people whom they have allowed to live at and to visit their property, or to patronize their commercial establishments; and

**WHEREAS**, such repeated criminal activities greatly interfere with the comfortable enjoyment of life and property for the neighbors of such nuisance properties, and lead to the deterioration of neighborhoods, as responsible homeowners and businesses move out of neighborhoods where such activity recurs; and

**WHEREAS**, this City Commission is empowered to enact this Ordinance pursuant to the authority granted to it in the Ohio Constitution Article XVIII Sections 3 and 7, the City's Charter Sections 3 and 75 and the Ohio Revised Code §§715.44, 715.47, 3707.01 et seq; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of Municipal Departments of the City of Sandusky, Ohio and, NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission hereby enacts new Section 531.16 of the Codified Ordinances, which shall read as follows:

**531.16 CRIMINAL ACTIVITY AS A NUISANCE; USER CHARGE FOR EXCESSIVE CONSUMPTION OF PUBLIC SERVICES.**

a. **Purposes.**

It is the intent of the City Commission by the adoption of this Section to impose on and collect from the owner of a property the City cost for police and law enforcement services, which are over and above the cost of providing normal law enforcement services and police protection city-wide, if the said excess costs are spent to abate a nuisance, which has occurred, or is maintained and permitted, on the property. The collection of the costs for such excess police services shall be by assessment against the property on which the nuisance, or activity constituting the nuisance, occurs, pursuant to the authority in the Ohio Constitution, Article XVIII §3 and §7, the City's Charter, §3 and §75, and the Ohio Revised Code, §715.44, 715.47, 3707.01 et seq, empowering the City Commission to abate nuisances and collect the costs of such abatement by special assessment.

b. **Definitions.**

**"BUILDING"** means a structure suitable for human shelter, a commercial structure that is maintained for business activities that involve human occupation, any portion of the structure, or the real property on which the structure is located.

**“EXCESSIVE POLICE AND NUISANCE ENFORCEMENT SERVICES”** means those services provided at a specific property address where a commercial building or structure is maintained for business activities that involve human occupation after four (4) or more calls for service for separate nuisance events had occurred in a prior thirty (30) day time period, and a specific property address where a building or structure is maintained for human shelter after two (2) or more calls for service for separate nuisance events had occurred in a prior thirty (30) day time period, and the owner was notified in writing that subsequent high levels of police and nuisance calls for service would result in a fee being charged for excessive consumption of those services, and where the owner has been provided with thirty (30) days following the notice to abate the nuisance generating the high levels of calls for service.

**“INTERESTED PARTY”** means any known lessee or tenant of real property or of a building thereon; any known agent of an owner, lessee, or tenant; any known person holding an unrecorded contract for deed, being a mortgage or vendee in physical possession of the real property of a building thereon; or any other person who maintains or permits a nuisance and is known to the City.

**“LAST KNOWN ADDRESS”** shall be the address shown on the records of the Erie County Auditor or a more recent address known to the police department. In the case of parties not listed in these records, the last known address shall be that address obtained by the police department after a reasonable search. If no address can be found, such address shall be that of the building in which the nuisance occurred, or was maintained or permitted.

**“NUISANCE”** The following activities occurring in buildings and on properties in the City of Sandusky are declared to be a public nuisance:

- (1) Unreasonable noise, disturbance of the peace or disorderly conduct in violation of Chapter 509 of the Codified Ordinances;
- (2) Any drug abuse offense in violation of Chapter 513 of the Codified Ordinances;
- (3) Any offense against another person in violation of Chapter 537 of the Codified Ordinances including Sections 537.03 (assault), 537.04 (negligent assault), 537.05 (aggravated menacing), 537.06 (menacing), 537.07 (endangering children), 537.12 (misuse of 9-1-1), 537.14 (domestic violence), 537.18 (unruliness and delinquency);
- (4) Littering or deposition of litter in violation of Section 521.08, 531.03, 531.04 and 955.06 of the Codified Ordinances;
- (5) Barking or howling animals in violation of Section 519.10 of the Codified Ordinances;
- (6) Failure to confine, restrain, or register a dangerous or vicious dog in violation of Chapter 505 of the Codified Ordinances;
- (7) Any animal violations under Sections 505.02 (dogs and other animals running at large), 521.09 (noxious or offensive odors), 505.09 (nuisance conditions prohibited), 505.10 (animal bits), 505.06 (killing or injuring animals), 505.08 (cruelty to animals) of the Codified Ordinances;
- (8) Any gambling violations under Chapter 517 of the Codified Ordinances;
- (9) Any health, safety or sanitary violations under Chapter 521 of the Codified Ordinances;
- (10) Any public nuisance under Section 531.02 of the Codified Ordinances;
- (11) Any obstruction of official business in violation of Section 525.07 of the Codified Ordinances;
- (12) Any alcohol violations under Chapter 529 of the Codified Ordinances;
- (13) Any sex offenses under Sections 533.07 (public indecency), 533.08 (procuring), 533.09 (soliciting), or 533.10 (prostitution) of the Codified Ordinances;
- (14) Any offense against property under Sections 541.03 (criminal damaging or endangering) or 541.04 (criminal mischief) of the Codified Ordinances;
- (15) Any theft violation under Sections 545.05 (petty theft), 545.08 (unauthorized use of property), or 545.19 (criminal tools) of the Codified Ordinances;
- (16) Any weapons, explosives, firearm or handgun violation under Chapter 549 of the Codified Ordinances;
- (17) Any noise violations under Chapter 519 of the Codified Ordinances;
- (18) Any fireworks violation under Chapter 1519 of the Codified Ordinances.

**“OWNER”** Means the person or persons in whose name or names the property is recorded with the Erie County Auditor for taxation purposes.

**“SERVICE OF NOTICE”** Service of the notice may be by certified mail to the owner's

mailing address currently listed by the Erie County Auditor's tax lists; by ordinary mail if the certified mail is refused or unclaimed; by personal service if delivered in person to the property owner or if the property owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the property owner's usual place of abode in the presence of some competent person of suitable age and discretion. Service of the notice to an interested party may be made by the same methods.

**c. Notice of Nuisance.**

- (1) If the Chief of Police or his or her designee has reason to believe that a nuisance has occurred, or is maintained or permitted in a building, or on a property, and intends to seek reimbursement for police services rendered in the future in connection with such nuisance or activities creating a nuisance, he or she shall provide written service of notice as defined in subsection (b) hereof to the owner and each interested party known to him or her.
- (2) The written notice shall:
  - State that a nuisance as defined in this chapter has occurred, or is maintained or permitted in the building, and specify the kind or kinds of nuisance which has occurred, or is being maintained or permitted;
  - Summarize the evidence that a nuisance has occurred, or is maintained or permitted in the building, including the date or dates on which nuisance-related activities have occurred or were maintained or permitted, provided, however, that one or more police reports can be used to satisfy this requirement; and
  - Inform the recipient of the notice that (i) he or she has thirty (30) days to abate the conduct constituting the nuisance, and to take steps to make sure that actions constituting a nuisance will not re-occur, (ii) if, after thirty (30) days from the date of service of the notice, the nuisance re-occurs, or actions or conduct constituting a nuisance take place, the City may in its discretion impose the costs of police services in abating or attempting to abate such nuisance or nuisance-related activities, and (iii) the costs will be collected by assessment against the property as defined through the Erie County Auditor to be assessed as a lien on the real property in accordance with law.

**d. Subsequent nuisance or nuisance-related activity; liability.**


- (1) If, within the period commencing thirty-one (31) days after a written notice is served pursuant to this Section and continuing for one (1) year thereafter, a nuisance occurs or is maintained or permitted on the property, and police services are rendered to abate or attempt to abate such nuisance, the costs of providing such police services within the said one-year shall be assessed against the property and collected as provided in this Section.
- (2) The costs for providing excess police services shall include but not be limited to the gross salaries including all fringes and benefits which are paid by the City of police officers while responding to or dealing with the nuisance or nuisance-related activities, the prorata cost of all equipment including vehicles, the prorata cost of any additional administrative services rendered in assisting the officers, the cost of repairs to any City equipment and property damaged in responding to such nuisance or nuisance-related activities, and the cost of any medical treatment of injured police officers.
- (3) Prior to the actual certification of any law enforcement and administrative costs pursuant to this Section, the Chief of Police or his/her designee shall give at least thirty (30) days advance written notice of intent to certify such costs to the owner of the real property against which the costs are to be certified. Written notice shall be provided as defined in subsection (b) hereof. Any aggrieved owner may appeal such intended certification to the City Manager, who may affirm, reverse, or modify the proposed certification. All appeals to the City Manager must be filed within fourteen (14) days of the mailing of the notice of intended certification.
- (4) Law Enforcement and related administrative costs shall not be charged against an owner who establishes both of the following:
  - (a) He had no knowledge of the nuisance activities on the premises and could not, with reasonable care and diligence, have known of the nuisance activities occurring on the premises; and

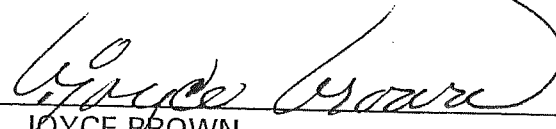
- (b) Upon receipt of notice of the occurrence of nuisance activities on the premises, the owner promptly took all actions necessary to abate the nuisance including, without limitation, compliance with the requirements of O.R.C. 5231.17(C) and 5231.04(A)(9).
- (5) The City reserves its rights to seek reimbursement for costs and damages not recovered by assessment against the property through other legal remedies or procedures.
- (6) Nothing in this Ordinance shall be construed to require or prevent the arrest and/or citation of any person or persons for violations of federal, state or local laws or ordinances.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

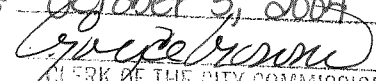
Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance shall take effect under suspension of the rules as contained in and in accordance with Section 13 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission.

  
MICHAEL J. KRESSER  
PRESIDENT OF THE CITY COMMISSION

ATTEST:   
B. JOYCE BROWN  
CLERK OF THE CITY COMMISSION

Passed: SEPTEMBER 27, 2004, effective after 30 days.

I HEREBY CERTIFY THAT THE  
FOREGOING ORD 04-159 WAS DULY  
PUBLISHED IN THE SANDUSKY  
REGISTER IN ITS ISSUE  
OF October 5, 2004  
  
CLERK OF THE CITY COMMISSION